



**CALIFORNIA STATE PERSONNEL BOARD**

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ARNOLD SCHWARZENEGGER, Governor



**CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Public Session Location – 801 Capitol Mall  
Sacramento, California, Room 150  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall  
Sacramento, California, Room 141  
Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California Suite 620

**SUMMARY MINUTES – SEPTEMBER 20, 2005**

**FULL BOARD SUMMARY MINUTES<sup>1</sup>**

**SEPTEMBER 20, 2005**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**1. ROLL CALL**

**Members present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Anne Sheehan, Member**

**2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**

**A.** On September 8, 2005, the SPB held a conference on "Metrics in Human Resources." The conference was very successful with over 150 persons in attendance. The conference fees paid for the costs of the conference. Karen Coffee from the SPB staff was commended for her work in organizing this event.

**B.** On September 9, 2005, the CPS Board met in Madison, Wisconsin. The principal issues included revising its budget to provide more detail and whether or not CPS should continue to fund community groups from excess revenue.

**C.** On September 15, 2005, the California Supreme Court heard oral argument on whether employee discipline can be sent to private adjudication by a collective bargaining agreement, rather than come to the SPB. The Court appeared to favor the traditional SPB process over private adjudication. A decision is expected in the next month or two.

**D.** At the October meeting, the Board will be briefed on the current budget as well as BCP's for next year.

**E.** The November meeting will include a planning session.

**F.** There will be a noontime meeting with some of the larger departments to discuss the Board's whistleblower regulations, workforce planning, and also any concerns the departments wish to raise.

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<sup>1</sup> The Minutes for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

### **3. REPORT OF THE CHIEF COUNSEL – Elise Rose**

#### **Litigation:**

- SPB v. DPA – Oral Argument before Supreme Court on September 13. Decision is expected within 90 days.
- Carpenters v. State – Board is represented by Jill Bowers at AG's office, as our many of the state departments.
- SEIU v. State – contacted by attorney representing DGS. We are filing NOA.
- McCollum v. State – Deputy Attorney General representing Board. Motion for Summary Judgment has been taken off calendar.
- Delwin Brown (Chad 6) – Administrative Law Judge made error in decision – inadvertently switched names of experts. Board has received errata, resolution, and corrected decision to be voted on at this meeting.
- Contacts from Gloria Romero's office have provided info on number of cases board overturns, etc.
- CDC v. Snell, et al. – Case where SPB ruled that both charges that alleged that appellants actively participated in pyramid scheme as well as dishonesty charges, stemming from investigations of pyramid scheme, had to be dismissed. Trial court said dishonesty charges could stand. Appellants are appealing.
- Perez v. CDC – Superior court upheld Board's decision sustaining dismissal on grounds of inmate abuse, filing false report, and instructing officers to file false report and threatening retaliation.

#### **OTHER:**

- Karen Brandt will have her enrobing ceremony on Friday, September 23, at 11:00 a.m.
- Christine Bologna has returned to the Public Employment Relations Board as an Administrative Law Judge.
- Deadline for ALJ I exam is this week.

### **4. NEW BUSINESS**

**NONE**

**5. REPORT ON LEGISLATION – Sherry Hicks**

**AB 124 (Dymally)** has gone to the Governor's desk.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**6. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

**7. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,  
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,  
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,  
United States District Court, Northern District of California.

**8. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**9. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor.  
[Government Code section 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**10. HEARING – WRITTEN STAFF REPORT FOR BOARD INFORMATION AND APPROVAL – Matilda Aidam**

**ANNUAL REPORT TO THE LEGISLATURE – DISCRIMINATION COMPLAINT ACTIVITY IN THE STATE CIVIL SERVICE FOR CALENDAR YEAR 2004**

Government Code section 19702.5(c) require the State Personnel Board to provide annually to the Legislature a report describing the discrimination complaint activity in the state civil service. This report covers the 2004 calendar year. SPB staff is requesting the Board to approve this report for submission to the Legislature.

Presenter:

Karen Coffee, California State Personnel Board, in absence of Matilda Aidam.

**ACTION: APPROVED**

VOTE: Elkins, Tom, Sheehan – Aye

**11. HEARING – PROPOSED RESOLUTION TO ABOLISH ASSOCIATE GOVERNMENTAL PROGRAM ANALYST ELIGIBLE LIST CREATED BY THE CALIFORNIA DEPARTMENT OF EDUCATION**

The California Department of Education (CDE) is requesting that an eligible list created from a promotional Associate Governmental Program Analyst examination be abolished even though persons on the eligible list have not had twelve months of eligibility as required by statute. An investigation has revealed that the interview questions were not secure at all times during the development of the examination. This hearing is to allow the Board to consider this issue and to hear comments from interested parties.

Speaker:

Karen Coffee, California State Personnel Board.  
William O'Neil, Department of Education.  
Other members of the public.

**ACTION:** The Board has taken this item under submission to allow 5 additional days for the public to submit written comments. The Board will take a vote at the next full Board meeting on October 3, 2005.

**12. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF OCTOBER 3, 2005, IN SACRAMENTO, CALIFORNIA**

**NONE**

**BOARD ACTIONS:**

**13. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF AUGUST 9, 2005**

**ACTION:** For the lack of a quorum of actual members who were present at the August 9, 2005 meeting, the Board has moved this item to the next Board meeting of October 3, 2005.

**14. EVIDENTIARY CASES - (See Case Listings on Page 10-16)**

**15. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes Page 23-24)**

**ACTION: ADOPTED**

**16. NON-EVIDENTIARY CASES - (See Case Listings on Page 17-20)**

**17. NON-HEARING CALENDAR**

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

- A.** The Department of Alcoholic Beverage Control (ABC) proposes to modify the minimum qualifications for the Deputy Division Chief (DDC), ABC, classification by reducing the minimum service required for its Pattern I from two years to one year and for Pattern II from five years to three years. This will permit candidates in the District Administrator, ABC, class to compete for the DDC, ABC, class in a timelier manner.

**ACTION:** The Board has pulled this item and has requested additional data from the Department before consideration.

**18. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**NONE**

**19. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

- A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**EXECUTIVE OFFICER, POLICY AND REGULATORY AFFAIRS**

The Department of Water Resources proposes to allocate the above position to the CEA category. The Executive Officer, Policy and Regulatory Affairs is responsible for statewide direction, oversight, and coordination of the California Energy Resources Scheduling Division, and will act in the absence of the Deputy Director.

**CHIEF DEPUTY DIRECTOR, EXTERNAL AFFAIRS**

The Department of Water Resources Control Board proposes to allocate the above position to the CEA category. The Chief Deputy Director, External Affairs is responsible for development of policy and new initiatives for the consideration by the executive management team.

**CHIEF DEPUTY DIRECTOR, WATER POLICY**

The Department of Water Resources Control Board proposes to allocate the above position to the CEA category. The Chief Deputy Director, Water Policy is responsible for all surface water quality programs, for the discharge to land program, the water rights program, and for development of policy and new initiatives for the consideration by the executive management team.

**CHIEF DEPUTY DIRECTOR, INTERNAL AFFAIRS**

The Department of Water Resources Control Board proposes to allocate the above positions to the CEA category. The Chief Deputy Director position serves as the principle policy advisor to the Executive Director in matters regarding the Water Board's Financial Assistance, Information Technology, and Administration programs; and acts on behalf of the Executive Director during his/her absence.

**PRINCIPAL DEPUTY LEGISLATIVE COUNSEL II, LEGAL DIVISION**

The Legislative Counsel Bureau proposes to allocate the above position to the CEA category. The Principal Deputy Legislative Counsel II, Legal Division is responsible for managing one of four legal divisions within the Legislative Counsel Bureau.

**SENIOR ALTERNATIVE ENERGY ADVISOR, CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY**

The Air Resources Board proposes to allocate the above position to the CEA category. The Senior Alternative Energy Advisor is responsible for the development of policies and strategies for consideration by the Secretary of CalEPA and ultimately, the Governor that will advance the use of hydrogen and renewables in California.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

**NONE**

**ACTION: NOTED**

**20. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**NONE**

**21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**



**22. BOARD ACTIONS ON SUBMITTED ITEMS - (See Minutes - Page 21-22)**

These items were taken under submission by the State Personnel Board at a prior meeting and might have been before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on these Minutes under Evidentiary Cases.

**A D J O U R N M E N T**

#### 14. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

##### A. BOARD CASES SUBMITTED

These items were taken under submission by the State Personnel Board at a prior meeting.

##### (1) **PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision adopted November 3, 2004  
modifying dismissal to 45 calendar days suspension

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

Oral argument heard July 13, 2005, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

##### (2) **JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

**Classification:** Associate Management Auditor

**Department:** Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Oral argument heard August 9, 2005, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

**(3) INTERNATIONAL UNION OF OPERATING ENGINEERS,  
UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A  
[PSC File No. 04-002 (b)]**

Review of personal services contract for maintenance and  
grounds keeping

**Department:** California Science Center

Proposed decision rejected June 21, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

**NO ACTION**

**(4) JOSEPH MARTINEZ, CASE NO. 04- 2690A**

Appeal from dismissal

**Classification:** Hospital Police Officer

**Department:** Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

**NO ACTION**

**(5) JAMES MCAULEY, CASE NO. 04-1856A**

Appeal from dismissal

**Classification:** Associate Transportation Engineer, Caltrans  
(Registered)

**Department:** Department of Transportation

Proposed decision rejected March 8-9, 2005

Transcript prepared

Oral argument heard June 7, 2005, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

- (6) **ANDREW RUIZ, CASE NO. 04-2391A**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections

Proposed decision rejected June 7, 2005  
Transcript prepared  
Oral argument heard August 30, 2005, Los Angeles  
Case ready for decision by FULL Board

**NO ACTION**

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases would have been on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

**NONE**

**C. CHIEF COUNSEL RESOLUTIONS**

On September 20, 2005, the Board took the following action on the following case presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Sheehan – Aye

- (1) **DELWIN BROWN, CASE NO. 04-1665R**  
**MARCEL BERRY, CASE NO. 04-1667R**  
**STEVE CHIU, CASE NO. 04-1773R**  
**LINDA BERSHELL-BRIDGES, CASE NO. 04-1777R**  
**ROBERT DUTRA, CASE NO. 04-1800R**  
**DANIEL TORRES, CASE NO. 04-1714R**  
Errata to decision adopted by the Board on August 30, 2005  
**Classification:** Youth Correctional Officer, Youth Correctional Counselor and Senior Youth Correctional Counselor  
**Department:** Department of the Youth Authority

**ACTION: APPROVED**

### **COURT REMANDS**

These cases would have been remanded to the Board by the court for further Board action.

**NONE**

### **STIPULATIONS**

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

## **D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

### **PROPOSED DECISIONS**

These were ALJ proposed decisions submitted to the Board for the first time.

On September 20, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Sheehan – Aye

#### **(1) MARK A. AMMONS, CASE NO. 05-0980**

Appeal from dismissal

**Classification:** Parole Agent I (Adult Parole)

**Department:** Department of Corrections

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the dismissal.

#### **(2) CHRISTINA CLARK, CASE NO. 05-1354**

Appeal from five percent reduction in salary for six months

**Classification:** Psychiatric Technician

**Department:** Department of Developmental Services

**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the five percent reduction in salary for six months to an official reprimand.

- (3) **JOHN GARZA, CASE NO. 05-1328**  
Appeal from official reprimand  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the official reprimand.
- (4) **JULIE KINDLE, CASE NO. 05-1378**  
Appeal from ten working days suspension  
**Classification:** Caltrans Equipment Operator II  
**Department:** Department of Transportation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the ten working days suspension.
- (5) **DARIN MORRIS, CASE NO. 05-0643**  
Appeal from five percent reduction in salary for six months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for six months.
- (6) **RENEE E. VALENTINE, CASE NO. 05-1047**  
Appeal from rejection during probationary period  
**Classification:** Motor Vehicle Technician  
**Department:** Department of Motor Vehicles  
**ACTION:** The Board adopted the ALJ's Proposed Decision granting the appeal.
- (7) **HERMAN VARGAS, CASE NO. 05-0206**  
Appeal from termination with fault  
**Classification:** Agricultural Technician I (Seasonal)  
**Department:** Department of Food and Agriculture  
**ACTION:** The Board adopted the ALJ's Proposed Decision granting the appeal.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

NONE

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

NONE

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On September 20, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Sheehan – Aye

- (1) NILOUFAR DIDEHVAR, CASE NO. 04-3047PA**  
Appeal from dismissal  
**Classification:** Transportation Engineer (Civil)  
**Department:** Department of Transportation  
**ACTION:** Petition for rehearing by appellant denied.
- (2) PHYLLIS HARMON, CASE NO. 03-1693P**  
Appeal from dismissal  
**Classification:** Exhibit Representative II  
**Department:** Department of Food and Agriculture  
**ACTION:** Petition for rehearing by appellant denied.
- (3) EDWARD QUIGLEY, CASE NO. 04-1380EP**  
Appeal from discrimination complaint  
**Classification:** Chaplain  
**Department:** Department of Corrections  
**ACTION:** Petition for rehearing by appellant denied.
- (4) JOHN SHELLCROFT, CASE NO. 05-1251P**  
Appeal from dismissal  
**Classification:** Physician and Surgeon  
**Department:** Department of Corrections  
**ACTION:** Petition for rehearing by appellant denied.

**WHISTLEBLOWER NOTICE OF FINDINGS**

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**NONE**

**F. PENDING BOARD REVIEW**

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On September 20, 2005, the Board took the following actions on the following cases presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Sheehan – Aye

**(1) PATRICK BRASS, CASE NO. 04-1952A**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision rejected July 26, 2005

Transcript prepared

Pending oral argument November 1-2, 2005, San Diego

**NO ACTION**

**(2) LINDA DEOS, CASE NO. 05-0434A**

Appeal from dismissal

**Classification:** Staff Counsel III (Specialist)

**Department:** Employment Development Department

Proposed decision rejected August 30, 2005

Pending transcript

**NO ACTION**



- (3) **GARY GARFINKEL, CASE NO. 98-3128RBA**  
Appeal for determination of back salary, benefits and interest  
**Classification:** Deputy Attorney General IV  
**Department:** Department of Justice

Proposed decision rejected July 13, 2005  
Transcript prepared  
Pending oral argument October 3, 2005, Sacramento  
Oral argument continued  
Pending oral argument November 1-2, 2005, San Diego

**NO ACTION**

- (4) **MINAS MAROKI, CASE NO. 04- 2700A**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections

Proposed decision rejected August 9, 2005  
Transcript prepared  
Pending oral argument November 1-2, 2005, San Diego

**NO ACTION**

- (5) **KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**  
Appeal from denial of reasonable accommodation  
and from constructive medical termination  
**Classification:** Office Technician (General)  
**Department:** Department of Fish and Game

Proposed decision rejected May 18, 2004  
Pending oral argument October 3, 2005, Sacramento  
Oral argument continued

**NO ACTION**

- (6) **MARK SAMORA, CASE NO. 04-3041A**  
Appeal from dismissal  
**Classification:** Instructional Technology Consultant  
**Department:** California State University, Los Angeles

Proposed decision rejected July 13, 2005  
Transcript prepared  
Pending oral argument October 3, 2005, Sacramento

**ACTION: SUBMITTED**

**16. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On September 20, 2005, the Board adopted as indicated below the following decisions presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Sheehan – Aye

**(1) EDIBERTO FARFAN, CASE NO. 04-2092**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Ineligible to possess a firearm.

**ACTION: DENIED**

**(2) ERNEST GUZMAN, CASE NO. 04-2584**

**Classification:** Motor Vehicle Field Representative

**Department:** Motor Vehicles

**Issue:** Suitability and misdemeanor convictions.

**ACTION: DENIED**

**(3) NICOLE HAMMOND, CASE NO. 04-2343**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability; omitted pertinent information, furnished inaccurate information and had a negative employment record.

**ACTION: DENIED**

**(4) ISMAEL HERNANDEZ, CASE NO. 04-1870**

**Classification:** Correctional Officer

**Department:** Corrections and Rehabilitation

**Issue:** Suitability; omitted pertinent information during the selection process.

**ACTION: DENIED**

- (5) **YOSEF KARIM, CASE NO. 05-0410**  
**Classification:** Youth Correctional Counselor  
**Department:** Youth Authority  
**Issue:** Suitability and illegal drug usage.  
**ACTION: DENIED**
- (6) **RAFAEL LOPEZ, CASE NO. 04-1869**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information and furnished inaccurate information during the selection process.  
**ACTION: DENIED**
- (7) **SHAUNA NALL, CASE NO. 04-2881**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and omitted pertinent information.  
**ACTION: DENIED**
- (8) **JORGE OCHOA, CASE NO. 04-1595**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Failure to comply with legal obligations.  
**ACTION: DENIED**
- (9) **JEREMY RICE, CASE NO. 04-2880**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; omitted pertinent information, negative driving and employment record.  
**ACTION: DENIED**
- (10) **ALEJANDRO ZAVALA, CASE NO. 04-2188**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and illegal drug activity.  
**ACTION: DENIED**

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

**NONE**

**C.    EXAMINATION APPEALS  
      MINIMUM QUALIFICATIONS  
      MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D.    RULE 211 APPEALS  
      RULE 212 OUT OF CLASS APPEALS  
      VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E.    REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

**NONE**

**PETITIONS FOR REHEARING CASES**

**NONE**

**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**

**6. JAMES MCAULEY, CASE NO. 04-1856**

Appeal from dismissal. Associate Transportation Engineer. Department of Transportation. (Oral argument held June 7, 2005.)

**NO ACTION**

**7. HEARING – Personal Services Contract #05-03**

Appeal of SEIU Local 1000 (CSEA) from the Executive Officer's February 16, 2005 Approval of a Contract for Information Technology Services between the California Department of Health Services (DHS) and IDNS, Inc. (Hearing held July 13, 2005)

**NO ACTION**

**8. PATRICK BARBER, CASE NO. 04-0174A.**

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)

**NO ACTION**

**9. JON CHASE, CASE NO. 04-0392A.**

Appeal from 30 working days suspension. Associate Management Auditor. Employment Development Department. (Oral Argument held August 9, 2005)

**NO ACTION**

**10. HEARING – PERSONAL SERVICES CONTRACT # 05-07**

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

**NO ACTION**

**11. INTERNATIONAL UNION OF OPERATING ENGINEERS,  
UNIT 12, LOCALS 3, 12, 39, & 501, CASE NO. 04-0813A [PSC File No. 04-002 (b)]**

Review of personal services contract for maintenance and grounds keeping. California Science Center. (Oral Argument held August 30, 2005)

**NO ACTION**

**12. JOSEPH MARTINEZ, CASE NO. 04-2690A**

Appeal from dismissal. Hospital Police Officer. Department of Mental Health. (Oral Argument held August 30, 2005)

**NO ACTION**

**13. ANDREW RUIZ, CASE NO. 04-2391A**

Appeal from dismissal. Correctional Lieutenant. Department of Corrections. (Oral Argument held August 30, 2005)

**NO ACTION**

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;


**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*



I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on September 20, 2005.

VOTE: Elkins, Tom, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive style with a long horizontal flourish at the end.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board